

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2058 – SB 2294

February 22, 2016

SUMMARY OF ORIGINAL BILL: Creates an offense for recklessly placing, leaving, or storing a firearm in a location that is in plain view and readily accessible to a child under 13 years of age if the firearm (1) is placed or stored in an a location in which the firearm is not immediately available to the owner or possessor; or (2) is temporarily left unattended by the owner or possessor; and (3) is loaded or ammunition is in the immediate vicinity.

The offense does not apply to firearms with a trigger lock or similar device that can only be removed by the owner or possessor, or firearms stored in a gun safe or similar lockable storage box that can only be opened by the owner, the possessor, or the owner or possessor's spouse.

The offense is a Class A misdemeanor if the child obtains possession of the firearm; a Class E felony if the child obtains possession and discharges the firearm causing bodily injury to the child or another; and a Class C felony if the child obtains possession of the firearm and discharges the firearm resulting in death of the child or another.

Requires licensed firearm dealers operating a retail store to post a sign designed by the Department of Safety (Safety) warning that it is a criminal offense to leave a loaded firearm accessible to children under 13 years of age. Requires Safety to design the signage by January 1, 2017.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$116,000/Incarceration*

SUMMARY OF AMENDMENT (012376): Deletes and rewrites the bill such that the only substantive changes are as follows:

Adds section clarifying that the act shall be known as "MaKayla's Law".

Removes provision that made temporarily leaving a firearm unattended for any period of time an offense if the firearm was loaded or ammunition was in the immediate vicinity.

Removes requirement that licensed firearm dealers operating a retail store must post a sign designed by Safety.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Articles from various news sources show at least one incident per year from 2012 to 2015 in which a child gained access to a firearm and discharged the firearm resulting in death of the child or another. Fiscal Review found no information on children gaining access to a firearm, or children gaining access to a firearm and discharging the firearm causing bodily injury to the child or another.
- It is assumed that the bill as amended will result in one Class C felony admission per year, one Class E felony admission per year, and one Class A misdemeanor conviction per year.
- It is assumed that the Class A misdemeanor conviction will not result in any jail time. It is assumed that the impact to local incarceration costs will not be significant.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount does not apply because these are new offenses.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The average time served for a Class E felony is 1.47 years, or 536.92 days.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 1.47 years (536.92 days) for a total of \$36,365.59 (\$67.73 x 536.92 days).
- The average time served for a Class C felony is 3.22 years, or 1,176.11 days.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 3.22 years (1,176.11 days) for a total of \$79,657.93 (\$67.73 x 1,176.11 days).
- The total recurring increase in state incarceration costs is estimated to be \$116,023.52 (\$36,365.59 + \$79,657.93).
- The bill as amended will create two new felony cases and one new misdemeanor case per year. It is assumed that the courts, district attorneys, and public defenders can accommodate the impact to their caseloads within their existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm